

Assembly Bill No. 417

CHAPTER 592

An act to add Section 538c to the Penal Code, relating to newspapers.

[Approved by Governor September 18, 1998. Filed
with Secretary of State September 21, 1998.]

LEGISLATIVE COUNSEL'S DIGEST

AB 417, Davis. Newspapers: unauthorized insertions.

(1) Existing law prohibits as a misdemeanor the stamping, printing, placement, or insertion of any writing, as defined, in or on any container containing a consumer product offered for sale, except with the consent of the owner or manager of the premises where the product is sold, or with the consent of the manufacturer, authorized distributor, or retailer of the product. Existing law also prohibits as a misdemeanor the possession or use of any cask, cover, label, or other thing in any way connected with the trade name of another, for the purpose of disposing of any article or other thing than that which it originally contained, with the intent to deceive or defraud.

This bill would prohibit as a misdemeanor, the attachment or insertion of any unauthorized advertisement, as defined, into, and the actual or intended redistribution of, a newspaper that is offered for retail sale or distribution without charge, except with the consent of the publisher or authorized distributor. This bill would also prohibit as a misdemeanor acting in concert with another to distribute newspapers with unauthorized advertisements, in violation of this provision. By creating a new crime, this bill would impose a state-mandated local program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. Section 538c is added to the Penal Code, to read:

538c. (a) Except as provided in subdivision (c), any person who attaches or inserts an unauthorized advertisement in a newspaper, and who redistributes it to the public or who has the intent to redistribute it to the public, is guilty of the crime of theft of advertising services which shall be punishable as a misdemeanor.

(b) As used in this section, “unauthorized advertisement” means any form of representation or communication, including any handbill, newsletter, pamphlet, or notice that contains any letters, words, or pictorial representation that is attached to or inserted in a newspaper without a contractual agreement between the publisher and an advertiser.

(c) Any person who acts in concert with another to attach or insert an unpaid advertisement in violation of subdivision (a) is guilty of a misdemeanor.

(d) This section shall apply to any newspaper that is offered for retail sale or is distributed without charge.

(e) This section does not apply if the publisher or authorized distributor of the newspaper consents to the attachment or insertion of the advertisement.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

